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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/888,472

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Jeffrey Allen Jones

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IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS, TX 75380

EXAMINER

NGUYEN, DUSTIN

ART UNIT

PAPER NUMBER

2154

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/888,472

Applicant(s)

JONES ET AL.

Examiner

Dustin Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>05/15/06, 05/30/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-11 and 13-15 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hobart [US Patent Application No 2002/0178255], in view of "Technology Overview, What is Mojo Nation", Mojo Nation Docs, 'Online', XP-002177454, hereinafter as XP.

4. As per claim 1, Hobart discloses the invention substantially as claimed including a method of provide incentives for client machines to contribute resources to a peer-to-peer computer network [i.e. reward users in a peer-to-peer network for actively or passively contributing to resources] [Abstract; and paragraph 0013], the method comprising:

receiving requests for information from a plurality of client machines [i.e. request from peer] [Figure 6; paragraphs 0045 and 0047];

determining if the client machines are contributing resources to peer-to-peer sharing [i.e. incentive program whereby peers actively or passively participating are rewarded in correlation with predetermined parameters] [80-88, Figure 6; paragraphs 0013, 0047; and claims 1 and 2].

Hobart does not specifically disclose sending the requested information to the client machines based upon a priority scheme giving high priority to requests from the client machines which are contributing resources to peer-to-peer sharing.

XP discloses sending the requested information to the client machines based upon a priority scheme giving high priority to requests from client machines which are contributing resources to peer-to-peer sharing [i.e. gives users who have contributed resources to the system a choice of moving to the head of the line] [page 1, paragraph 4, "Distributed load Less-occupied server"; and page 2, paragraph 2, "The Mojo Nation ... overloaded servers"].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Hobart and the teaching of XP because the teaching of XP would provide an efficient, massively scalable and secure toolkit for distributors and consumers of digital contents and maintain a high degree of reliability and fault tolerance [XP, page 5, paragraph 6].

5. As per claim 3, Hobart discloses wherein the resources client machines contribute to peer-to-peer sharing comprising at least two of disk space, bandwidth, CPU resources, memory and specified number of connecting users [paragraphs 0032-0049].

6. As per claim 6, it is rejected for similar reasons as stated above in claim 1.

7. As per claim 8, it is rejected for similar reasons as stated above in claim 3.

8. Claims 2, 4, 5, 7, 9-11, 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hobart [US Patent Application No 2002/0178255], in view of “Technology Overview, What is Mojo Nation”, Mojo Nation Docs, ‘Online’, XP-002177454, hereinafter as XP, and further in view of Eytan Adar and Bernardo A. Huberman, “Free Riding on Gnutella”, ‘Online’, hereinafter as Adar.

9. As per claim 2, Hobart and XP do not specifically disclose giving higher priority to requests within the high priority requests in proportion to a level of resources contributed by a given client machine within the client machines which are contributing resources to peer-to-peer sharing such that an additional prioritization is provided for the high priority requests themselves based on the level of resources contributed by the client machines which are contributing resources to peer-to-peer sharing. Adar discloses giving higher priority to requests within the high priority requests in proportion to a level of resources contributed by a given client machine within the client machines which are contributing resources to peer-to-peer sharing such that an additional prioritization is provided for the high priority requests themselves based on the level of resources contributed by the client machines which are contributing resources to peer-to-peer sharing [i.e. calculate the contribution provided by individuals in exchange for consumption (either in proportion or some fixed cost)] [page 2, paragraph 2, “Since files ... the digital

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commons”; and page 9, paragraph 5, “An ideal ... the service degrades.”]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Hobart, XP and Adar because Adar’s teaching would prevent degradation of the system performance and vulnerability to the system which cause by free riding peer [Adar, page 1, Abstract].

10. As per claim 4, it is rejected for similar reasons as stated above in claims 1 and 2.

11. As per claim 5, it is rejected for similar reasons as stated above in claim 3.

12. As per claim 7, it is rejected for similar reasons as stated above in claim 2.

13. As per claim 9, it is rejected for similar reasons as stated above in claims 1 and 2.

14. As per claim 10, it is rejected for similar reasons as stated above in claim 3.

15. As per claim 11, it is rejected for similar reasons as stated above in claims 1 and 2.

Furthermore, Hobart does not specifically disclose a queue. XP discloses priority queue [page 5, paragraph 4, “One of the cornerstones ... a low-priority queue to run during times of low demand within the network.”]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Hobart and the teaching of XP because the teaching of XP would provide an efficient, massively scalable and secure toolkit for distributors

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and consumers of digital contents and maintain a high degree of reliability and fault tolerance [XP, page 5, paragraph 6].

16. As per claim 13, it is rejected for similar reasons as stated above in claim 3.

17. As per claim 14, it is rejected for similar reasons as stated above in claims 1 and 2.

18. As per claim 15, it is rejected for similar reasons as stated above in claim 3.

19. Applicant's arguments with respect to claims 1-1 and 13-15 have been considered but are moot in view of the new ground(s) of rejection.

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached at (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen

Examiner


JOHN FOLLANSBEE
SUPERVISOR, PATENT EXAMINER
TECHNOLOGY CENTER 2100
Art Unit 2154